



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/173626

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 12, 2016, under Wis. Stat., §49.45(5), to review a decision by Brown County Human Services to deny Medical Assistance (MA), a hearing was held on May 25, 2016, at Green Bay, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether petitioner failed to verify asset dispositions.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Brown County Human Services  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. An application for nursing home MA was filed on petitioner's behalf on January 26, 2016 seeking coverage back to October 1, 2015. During the process the county worker noted that petitioner withdrew some \$17,474 from his IRA account in June and July, 2015. The worker requested verification of how the money spent.

3. Petitioner's representative provided a hand-written detail summary of how the money was spent (it appears to have been primarily on medical bills). The worker did not accept the handwritten summary as sufficient verification, and by a notice dated February 26, 2016 the county denied the application due to failure to verify.
4. There is no evidence that the worker specifically requested copies of cancelled checks or other documentary verification.

### **DISCUSSION**

An MA recipient is required to verify information that can affect eligibility. Wis. Admin. Code, §DHS 102.03. If the household fails to verify required information by the time limit, the agency may deny the benefits. Wis. Admin. Code, §DHS 102.03(1). The agency should assist the applicant if she requests assistance. BC+ Handbook, App. 9.8. If sources of verification are unavailable, the agency should use the best information available. Id.

The Handbook, App. 9.11.4, provides as follows:

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility.

In this case petitioner's representative testified that she was not told to provide cancelled checks, and Attorney [REDACTED], who was involved in the application process, also stated that he was unaware of the requirement. Nothing in the case notes suggests that they were informed of the requirement; clearly they were attempting to comply with the verification request.

I will remand the case back to the agency to allow petitioner more time to verify what happened to the \$17,000 IRA withdrawal. Petitioner's representatives brought the documentation to the hearing, so it appears to be available now. If petitioner disagrees with the county action on this remand he may file a new appeal.

### **CONCLUSIONS OF LAW**

Petitioner should be allowed more time to verify disposition of an asset because it was not made clear during the application process that the verification provided was insufficient.

**THEREFORE, it is**

### **ORDERED**

That the matter be remanded to the county with instructions to review petitioner's newly submitted verification of the disposition of IRA withdrawals in 2015, and to determine MA eligibility based upon the January 26, 2016 application date. The county shall do so within 10 days of this decision.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 26th day of May, 2016

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\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on May 26, 2016.

Brown County Human Services  
Division of Health Care Access and Accountability  
Attorney [REDACTED]